

**INITIAL STATEMENT OF REASONS
NOTICE OF COMPLETION AND PROOF OF ENROLLMENT CERTIFICATES
FOR A DRIVING UNDER THE INFLUENCE PROGRAM**

Vehicle Code Section 13353.45 requires the department, in cooperation with the Department of Alcohol and Drug Programs, to develop notice of completion certificates for DUI Programs and to develop, implement and maintain a system for safeguarding the completion certificates against misuse.

Currently, Article 2.5 (Driving Under the Influence Programs) of Chapter 1, Division 1, Title 13, of the California Code of Regulations specifies:

- (1) requirements for the purchase and use of Notice of Completion Certificates by DUI program providers;
- (2) requirements for handling and accounting for lost or stolen certificates;
- (3) the requirements for a program certificate for first DUI offenders;
- (4) termination of a suspension or revocation action under Vehicle Code Section 13353.5; and
- (5) reissuance of the driver license after termination of an action under Section 13353.5.

Since the adoption of these regulations in 1995, the Notice of Completion Certificate has been revised. Therefore, the regulations, which refer to them, must be amended to reflect these changes.

The department has also identified various elements of the processes for issuing, tracking, submitting, and receiving DUI program certificates which may compromise the security of the DUI certificates or offer opportunities for fraudulently obtaining and submitting DUI program certificates. With this regulatory proposal, the department will attempt to improve the security of these processes and minimize the opportunities for fraud.

The department proposes to adopt Section 120.01, in Article 2.5, Chapter 1, Division 1, Title 13, California Code of Regulations to specify the requirements for acquiring and use of the proof of enrollment certificate. This proposed action will also amend existing Sections 120.00 and 120.02, and 120.04 under Article 2.5 to reflect process requirement changes, and revisions to the forms and certificates required to provide proof of completion and enrollment in a DUI program.

§120.00. Purchase and Use of Notice of Completion Certificates.

Existing Section 120.00 of Title 13 was adopted to specify the name and form number of the completion certificate, establish the fee for the completion certificates, establish the procedures for purchasing completion certificates, and specify the program provider's record keeping and processing responsibilities.

Subdivision (a) currently requires a DUI Program provider to only issue the Notice of Completion Certificate, DL 101 (6/93), purchased from the department, to participants who have satisfactorily completed the course of instruction offered by the provider.

The proposed amendments to subdivision (a) include amendments to the DL 101, which are identified by a change to the certificate revision date. The correct revision of the DL 101, which is (Rev. 12/2000), is necessary so the DUI Program providers are aware of the changes and use the most recent revision of the certificates. Proposed subdivision (a) specifies the name and form number of the completion certificate including the new revision date of (12/2000) for the Notice of Completion Certificate, (DL 101).

The changes to the DL 101 include:

1. The addition of a distinct field for use by department staff only for including identifying information that will help the department match information provided by the provider to records in the department's database for accurate updating to the database.
2. A checkbox was added to allow providers to indicate that a participant who has been convicted of a violation of Section 23140 of the Vehicle Code and who is between the ages of 18 years-old and 20 years-old has completed the education component of a DUI program.
3. The checkbox that indicated the First Offender Program completion has been replaced with a First Offender line to allow the provider to specify the number of program months completed by the participant.
4. The checkbox that indicated a multiple offender completion has been removed because it was redundant and unnecessary.
5. A space for including the violation date on the certificate was added. This was necessary to allow the department to determine what the reinstatement requirements are, because those requirements change based on the violation date.
6. The designation for the "Court Case" number was changed to "Court Code" which is more useful to the department in identifying which court adjudicated the program participant's DUI case.
7. The word "required" was removed from the ADP License field as redundant because all the information asked for on the certificate is required.
8. The perjury statement was modified to conform to the Evidence Code.
9. A field was added to capture the printed name of the program representative who is authorized to sign the form, because the signed name is not always easily decipherable.
10. The instructions to the participant were modified to reflect the process changes for submitting the certificates. Because the participant will no longer be allowed to submit the certificate, the instructions will now be addressed to the program provider.

This subdivision also specifies that the completion certificates shall only be used by the program provider for submission to the department on behalf of persons who have satisfactorily completed the required program. In order to secure the Notice of Completion Certificates from fraud and misuse, it is necessary to specify that these certificates can be used only by the program provider who obtained them from the department, and that the certificates shall only be submitted to the department for participants enrolled in a course offered by the program provider. These restrictions eliminate the possibility that providers will transfer, sell, or loan certificates between programs or to individuals. This is necessary to maintain a tracking system which attempts to account for, and track each certificate by its individual serial number from the time it is issued by the department until it is submitted to the department by the program provider to whom it was issued.

Existing subdivision (b) specifies a \$1.00 fee that the department will charge the program providers for each blank Notice of Completion Certificate it provides to the provider. This fee is authorized under Section 13353.45 CVC, to cover the department's costs incurred to administer this program. This proposal will increase that \$1.00 fee to \$3.00 for each blank completion certificate delivered to the provider in order to cover the department's increased costs for a program that secures the certificates against fraud and misuse. A costing report, justifying the fee increase, will be made available on request.

Existing subdivision (c) permits the provider to purchase Notice of Completion Certificates in books of fifty and specifies the department's address for mailing purchase orders. Proposed subdivision (c) changes the address for mailing the purchase orders with the updated and correct department section name.

Subdivision (c)(1) currently requires a program provider to request the purchase of completion certificates in writing on the provider's letterhead stationery, and requires the request to contain the original signature of the program director or an employee authorized by the program director to purchase certificates.

The department will no longer require or authorize completion certificate requests to be made on letterhead stationery, but instead has developed a standardized form for this purpose. The proposed amendments to subdivision (c)(1) delete the current request requirements, and instead specify that a program provider must complete and submit to the department a Request for DUI Program Certificates, on the DL 101R (Rev. 10/2001). Requiring a specific form instead of the letterhead stationery from each DUI Program provider creates a more uniform and efficient method of collecting all necessary information and processing the requests from DUI program providers throughout the state.

The DL 101R (Rev. 10/2001) requests the program name, license number, and address in order to identify the provider. It also requests the authorized employee's name and signature in order to ensure the person requesting the forms is authorized to order forms for the provider. The form asks the provider to specify the type of certificates being ordered, and requires the provider to identify any damaged or missing

certificates for the purpose of requesting replacements. This is required in order to ensure the certificates were not received and to provide free replacement certificate for those, which have been lost. The DL 101R (Rev. 10/2001) also requires the quantity of Completion Certificates requested, which ensures that the department issues the correct number of certificates paid for by the program provider and assigns them by serial number to the correct program provider.

Existing subdivision (c)(1)(A) allows a DUI Program director to authorize an unspecified number of employees to purchase Notice of Completion Certificates by submitting, in writing, the printed name and title of the employee, the effective date of the authorization, the employee's signature, and the program director's signature. However, the department developed a specific form for this purpose.

The department will no longer allow program directors to authorize an unspecified number of employees to purchase certificates by submitting a written request, but instead has developed a standardized form for this purpose. The proposed amendments to subdivision (c)(1)(A) delete the current requirements, and instead specify that a program provider must complete and submit to the department a DUI Program Signatory Authority form, DL 101S (Rev. 11/2001) to authorize only one employee, per licensed location, to request DUI certificates and authorize two employees, per licensed location, to sign completed certificates.

Limiting the authorization of only three employees per licensed location to purchase certificates will help ensure the department can effectively validate the incoming orders of over 270 program providers statewide. This will help the department to more effectively and accurately track which persons and provider locations are currently authorized to purchase and sign certificates, where to assign specific certificates and to track those persons whose authorization to purchase or sign certificates has been deleted.

Requiring a specific form instead of the letterhead stationery from the program provider creates a more uniform and efficient method of collecting all necessary information and processing the requests received from the providers throughout the state.

The proposed amendments and the DL 101S (Rev. 11/2001) require the printed name of the program director and the authorized employees in addition to their original signatures. This is necessary to ensure the department correctly identifies the names of these persons and to obtain a sample of their signature in order to verify subsequent certificate requests and completed certificates submitted by these persons by comparing incoming signatures against the signature samples provided on the DL 101S.

The DL 101S (Rev. 11/2001) also requires the name, license number and address of the DUI Program, which allows the department to identify the program and to verify that the program is currently licensed by the Department of Alcohol and Drug Program. Additionally, requiring the DUI Program address will help to ensure that the department has the most current address information on file.

The DL 101S (Rev. 11/2001) also requires the effective date of the authorization specified on the form, which allows the department to verify exactly what time period employees are authorized to order or sign DUI program certificates from the department. Because there is a regular turnover of the provider's employees there is a need to capture the specific authority period for these authorized employees.

Existing subdivision (c)(1)(B) allows a DUI Program director to delete the authorization of an employee to purchase Notice of Completion Certificates or order Proof of Enrollment Certificates (DL 107) by submitting, in writing, the names of the employees, the effective date of the deletion, and the program director's signature. However, the department developed a specific form for this purpose

The department will no longer require or allow program directors to delete an employee's authorization to purchase, request, or sign certificates by submitting a written request, but instead has developed a standardized form for this purpose. The proposed amendments to subdivision (c)(1)(B) delete the current requirements, and instead specify that a program provider must complete and submit the DL 101S (Rev. 11/2001) to delete an employee's authorization to purchase, request, or sign DUI certificates. Requiring a specific form instead of the letterhead stationery from each DUI Program provider creates a more uniform and efficient method of collecting all necessary information and processing the requests from DUI program providers throughout the state.

The department proposes to add subdivision (c)(1)(C), which requires providers to submit the DL 101S at least five days prior to the effective date of the change in the authorization status of an employee. This is necessary in order for the department to mark the provider database and have the changed status available prior to receiving any certificate requests or completed certificates signed by the newly authorized or newly deleted employee. The department needs this information prior to making a decision to accept or reject an order for certificates or a completed certificate.

Existing subdivision (c)(2) requires the department to mail DUI certificates only to the address of record for each program provider.

The department proposes to add subdivision (c)(2)(A), which limits the program providers to one address of record that is consistent with the mailing or site address given to the Department of Alcohol and Drug Programs and printed in their Directory of DUI Program Providers. This provides some assurance to the department that the address is a legitimate provider address and thereby reduces the opportunity for fraudulent ordering and delivery.

The department proposes to add subdivision (c)(2)(B), which requires the program providers to notify the Department of Alcohol and Drug Programs of any changes to its address of record that occurs between directory publications. This will ensure that DMV's DUI certificate tracking and validation database will have timely updates, which have been authorized by the Department of Alcohol and Drug Programs.

Subdivisions (c)(2)(A), and (c)(2)(B) are necessary in order to keep the departments informed of address changes that are not listed in the DUI program directory so the department will be able to validate the requesting program provider's new address on incoming requests for DUI certificates. This will help to ensure that the blank certificates are shipped to the correct address.

Existing subdivision (d) requires the program provider to maintain a receipt issued by the department for purchase of DUI completion certificates.

The department proposes to amend subdivision (d) to specify that the program providers must use a new DMV form, The Notice of Receipt of DUI Program Certificates ADM 518A (NEW 5/2002) as the DUI certificate shipping receipt. The ADM 518A replaces an old form, the ADM 518 (Rev 9/96), that was used by some providers as a shipping receipt.

The new ADM 518A is a five-part form with three copies to be used by DMV and two copies to be shipped to the provider. The pink copy is to be kept by the provider as a business record for a period of four years and the white copy is to be completed by the provider to document receipt of DUI certificates shipped by the department. This is necessary to maintain an audit trail for all certificates shipped and received which helps to prevent the fraudulent use of these certificates. The four-year period is consistent with the period required in Title 9 of the California Code of Regulations for other program provider business records.

The ADM 518A contains a serial control number and requests the program provider's name, license number, and address in order to identify the provider. The form identifies the DMV stock number, the beginning and ending certificate serial numbers, and the quantity of certificates being shipped with that order. This identifies the certificates shipped in a particular order. The form includes a space for remarks allowing the provider to indicate any problems with the shipment such as loss or damage. It provides a date the order was shipped and provides a space to identify the DMV warehouse worker who shipped the order. The ADM 518A also provides a statement of receipt and requires a name, license number, phone number, date of receipt and a signature from the provider to certify receipt of the certificates identified on the receipt. The form contains specific instructions on how to process each copy.

The department proposes to add subdivisions (d)(1), (d)(1)(A) and (d)(1)(B), which specify the purpose, use, and effect of the shipping receipt to secure the DUI certificates shipped with the receipt.

Subdivision (d)(1) requires the program provider to sign and return the white copy of the ADM 518A by mail to the department as evidence of receipt of the shipped certificates identified on the receipt.

Subdivision (d)(1)(A) provides that the department will not accept the DUI certificates issued under a shipping receipt until the department receives that receipt.

Subdivision (d)(1)(B) authorizes the department to cancel any certificates shipped for which the department has not received a signed shipping receipt within eight weeks of

the shipping date. The certificates canceled by this process will not be accepted by the department as proof of completion or enrollment.

Subdivisions (d)(1), (d)(1)(A) and (d)(1)(B) are necessary to assure the department that the certificates ordered and purchased by an authorized provider were actually received by that provider. This is necessary to secure the certificates against fraud, and will help prevent fraudulent submission of stolen or misplaced certificates.

Subdivision (d)(2) provides that the department will not refund the fees paid for certificates cancelled pursuant to subdivision (d)(1)(B). A secure procedure will be provided to replace certificates free of cost that are lost or damaged during manufacture or shipping, however the department does not believe a refund for certificates delivered is justifiable following a provider's unwillingness to provide receipt verification.

Subdivision (e) is being amended to make non-substantive language changes to conform the language to other subdivisions.

Currently, subdivision (f) specifies the procedures for requesting a refund for certificates, and limits refunds to instances when certificates are (1) on hand when the business closes; (2) damaged during the manufacturing or shipping process; or (3) shipped by the department but never received. Subdivision (f)(1) requires a program provider to complete an Application for Refund, form ADM. 399 (Rev. 9/87) to request a refund, and specifies the contents of that form. Subdivision (f)(2) requires the return of some copies of damaged certificates or certificates on hand when a provider goes out business, and requires the provider to retain other copies of these certificates.

The department proposes to amend subdivision (f) to allow free replacement of certificates that were shipped but not received or were damaged during manufacture or shipment. The amendments to subdivision (f) will no longer allow a refund for any reason. The department proposes to amend subdivision (f)(1) to specify the request process for free replacement of certificates that were shipped but not received or damaged during manufacture or shipment. The department proposes new subdivision (f)(2) to specify the retention and disposal process for certificates that were damaged during manufacture or shipment.

The changes to subdivisions (f), (f)(1), and (f)(2) will limit the opportunities for fraudulent use of these certificates and will streamline both the department's process for handling these certificates as well as the program provider's processes for return and retention of these certificates. The process of refunding fees is a cumbersome one and is unnecessary in light of the free replacement process, which will replace it. Additionally, the department has never received a request for a refund under the existing process.

The department proposes to add subdivision (g) to Section 120.00. Subdivision (g) provides that the department will only accept completion certificates that are submitted directly from program providers and will not accept certificates from program participants. This is necessary to eliminate the potential for fraud based on alterations or copies of the certificates that are in the possession of the participants and others.

There will be corresponding changes to Section 9867, Title 9 of the California Code of Regulations which prohibit program providers from issuing the certificates to program participants. Subdivisions (g)(1), (g)(2), and (g)(3) limit and specify the various methods program providers can submit DUI certificates to the department.

The department proposes to add subdivisions (h), (h)(1), (h)(2), and (h)(3) to Section 120.00. Subdivision (h) and (h)(1) provide that the Vehicle Code requirements for a person to give, provide, or submit proof of completion of a DUI program, are satisfied by the program participant's signature on the Notice of Completion Certificate (DL 101) or on the Participant's Certification of DUI Program Enrollment or Completion, DL 804 (New 4/2002), which attests under penalty of perjury that the participant has completed all the required program components. This is necessary to comply with the many Vehicle Code sections that contain language requiring a person convicted of DUI violations to "give", "provide", or "submit" proof of program completion while still keeping the certificates out of the hands of the program participants. The participant's signature recorded on the DL 804, along with the completed DUI certificate will serve as the necessary proof of program completion.

Subdivision (h)(1) incorporates by reference the Participant's Certification of DUI Program Enrollment or Completion, DL 804 (New 4/2002). The DL 804 requires the program provider's name and license number to identify the provider. The form requires the participant's name and driver license to identify the driver. It requires the type of program and certificate covered by the DL 804, the program enrollment or completion date and the certificate serial number which it is associated with. This is necessary to identify the program. The form also requires the phone number, and a signature from the program participant that certifies that he or she has enrolled in or completed the program identified on the form. This is necessary to substitute for the certification that is required on the DUI certificate. The reverse side of the form provides instructions on how to complete it.

Subdivision (h)(2) provides retention information for the DL 804 (New 4/2002). Subdivision (h)(3) provides a method for capturing the signature required by subdivision (h) when a program provider submits an electronic completion certificate. The record of the participant's signature is necessary to enhance the department's ability to pursue a fraud action against a participant who engages in the fraudulent submission of a completion certificate.

The department proposes to add subdivision (i) to section 120.00. Subdivision (i) provides that the department will only accept completion certificates that contain all requested information. It also provides that the department will retain all incomplete certificates and requires the program provider who submitted them to submit replacement certificates that are completely and legibly filled out. This is necessary to ensure that all necessary information is provided on the certificates submitted by the program providers. The department has and continues to receive many DUI certificates that were submitted as incomplete documents, and this often prevents the timely and accurate updating of the department's driver license records. Submission of incomplete

certificates has also allowed participants or other persons to provide certificates that contain fraudulent information. This proposed subdivision would help to prevent these problems.

The department proposes to add subdivision (j) to section 120.00. Subdivision (j) provides that the department will only accept individual completion certificates from a program provider, who our records indicate we have shipped and assigned them to. It will allow acceptance of electronic certificates from providers who are authorized to submit them. This subdivision is necessary to ensure that the certificates are not being fraudulently submitted from persons who are not authorized to possess or submit them. This subdivision provides an additional method for tracking certificates by serial number back to the provider that the department's records indicate is authorized to possess and submit them. This will help to reduce the number of fraudulent certificates submitted and accepted.

The department proposes to add subdivision (k) to section 120.00. Subdivision (k) provides that the department will not accept completion certificates that are submitted more than four years from the date they were issued. This is necessary to ensure that the department and the program providers will still have the information necessary to validate the certificate. The program providers are only required to maintain their records related to the completion certificates for a period of four years and four years is a reasonable timeframe in which to submit an issued certificate.

§120.01. Acquisition and Use of Proof of Enrollment Certificates.

Before the department can issue a restricted driving privilege pursuant to Sections 13352, subdivision (a)(3), 13352.5, or 13353.7, of the Vehicle Code, the offender must submit to the department proof of enrollment in a Driving Under the Influence (DUI) treatment program licensed by the Department of Alcohol and Drug Programs. The proof of enrollment form is not specified in statute; therefore the department proposes to add Section 120.01 to Article 2.5 of Title 13 in order to implement and make specific the Vehicle Code sections that require proof of enrollment in a DUI treatment program as a condition for obtaining a restricted driver license.

Section 120.01, subdivision (a) incorporates by reference the proof certificate as the Proof of Enrollment Certificate, DL 107 (Rev. 5/2000), and specifies the procedures for obtaining and using the certificates. Like the Notice of Completion Certificates, the Proof of Enrollment forms can be and have been altered, counterfeited, and sold illegally. The department has determined that specifying the document and limiting the ordering process is necessary to secure the forms and limit the opportunities for fraudulently obtaining and submitting the DUI Proof of Enrollment Certificates. Requiring enrollment information be submitted on the DL 107 provides a uniform and efficient method for collecting and processing the information.

The Proof of Enrollment form, DL 107 (Rev. 5/2000), requires:

- ◆ The participant's full name, birth date, and driver license number. This is necessary to allow the department to properly identify the person applying for

the restriction. The participant's street address is also required and provides the department with current address information in the event the department must correspond with the participant.

- ◆ The participant to indicate whether he or she is a first- or second-DUI offender, and the length of the required participation in the DUI Program. Depending on the conviction, the person can be required to complete a program that is as short as 3 months or as long as 30 months in duration. This requirement provides the department with information necessary to verify the length of the person's required participation in a DUI Program. The date of enrollment or re-enrollment in the DUI program is required on the DL 107. This provides the information necessary for the department to verify when an applicant enrolled or re-enrolled in a licensed DUI program and, therefore, became eligible for a restricted driver license.
- ◆ The date of the DUI violation, the court code and the docket number. The date allows the department to determine when the violation occurred and the court code allows the department to identify the court that adjudicated the case in question. The docket number allows the department to identify the case in question. Because the restricted driver license is issued under limited specific circumstances, the information required allows the department to verify that the conditions exist in a particular case and warrant issuing the restricted license.
- ◆ The name, Department of Alcohol and Drug Programs license number and address of the DUI program in which the participant is enrolled. This information allows the department to verify that the Department of Alcohol and Drug Programs has licensed the program.
- ◆ The participant and the authorized DUI Program representative to sign and date a statement, under penalty of perjury under the laws of the State of California, that the information provided on the Proof of Enrollment form is true and correct. This requirement is necessary to hold the parties accountable for the information provided on the form; allows the Department of Alcohol and Drug Programs to pursue an action against the DUI program provider; and allows the department to pursue a fraud action against the participant.
- ◆ The telephone number of both the participant and authorized DUI Program representative. This information allows the department to immediately contact either party, if it is necessary.

Subdivision (a) requires the program provider who obtained the certificates from the department to use them only for submission to the department for participants enrolled in a course offered by that program provider. This requirement will help to eliminate the potential of providers fraudulently transferring, selling, or loaning certificates between programs or to individuals. The requirement helps to ensure the program provider will only be submitting certificates for the persons actually enrolled in a required program. This requirement is also necessary to maintain and support a

tracking system that attempts to account for each certificate by serial number, and make each individual provider responsible for each certificate by serial number which the department issued to it. This subdivision is necessary to help secure the Proof of Enrollment certificates from fraud and misuse.

Subdivision (a) also helps to eliminate the potential for participant fraud by keeping the certificate out of the participant's hands, and requiring the program provider to submit the certificates directly to the department. This eliminates the opportunity for copying, altering or reselling of the certificates by the participants, and establishes in regulation the only legal issuance process for these forms.

Subdivision (b) specifies that Proof of Enrollment certificates may be obtained in books of 50 from the department's headquarters office and specifies the department address where the program provider is to mail the certificate requests.

Subdivision (b)(1) requires a program provider to request Proof of Enrollment certificates by submitting a Request for DUI Program Forms, DL 101R (Rev. 10/2001). This form must be completed in full and contain the DUI Program name, license number and address, the authorized employee name and signature, and the quantity of forms requested. This requirement helps to ensure that Proof of Enrollment forms are released only to a currently authorized program. Requiring the authorized employee name and signature provides the department with evidence of the identity of the requestor, which may be verified against the program's records as verified by the Department of Alcohol and Drug Programs.

Subdivision (b)(2) specifies that Proof of Enrollment forms shall be mailed only to the program provider's address of record. Requiring a program provider to request Proof of Enrollment forms by mail from headquarters and then shipping the forms to the provider makes it more difficult for someone to fraudulently obtain the forms, since the forms are only released by mail to the address of record which is verified prior to shipment of the forms. Even if someone fraudulently orders the forms, they will only be mailed to the DUI Program at its verified current business address.

Subdivision (c) requires the provider to maintain the pink copy of the shipping receipt, the ADM 518A, as a business record for four years from the issue date. This is necessary to maintain an audit trail for all certificates shipped and received which helps to prevent the fraudulent use of these certificates. The four-year period is consistent with the period required in Title 9 of the California Code of Regulations for other program provider business records.

Subdivision (c)(1) requires the provider to mail a signed copy of the shipping receipt back to the department, subdivision (c)(1)(A) authorizes the department not to accept the certificates shipped under that shipping receipt until the department receives the signed shipping receipt, and subdivision (c)(1)(B) authorizes the department to cancel the certificates shipped under a receipt that the department does not receive within eight weeks of the shipping date. These requirements are consistent with the requirements of Section 120.00 (d) and are necessary to ensure receipt of the certificates by the provider to which they are shipped and to provide a control mechanism for

canceling those certificates which do not arrive at their intended destination. This is necessary so the department can maintain an audit trail for all certificates shipped and received which helps to prevent the fraudulent use of these certificates.

Subdivision (d) provides that the department will only accept Proof of Enrollment Certificates that are submitted directly from program providers and will not accept certificates from program participants. This is necessary to eliminate the potential for fraud based on alterations or copies of the certificates that are in the possession of the participants and others. There will be corresponding changes to Section 9867, Title 9 of the California Code of Regulations which will prohibit program providers from issuing the certificates to program participants. Subdivisions (d)(1), (d)(2), and (d)(3) limit and specify the various methods program providers can submit DUI certificates to the department.

The department proposes to add subdivision (e) to Section 120.01. Subdivision (e) provides that when a program provider submits an electronic enrollment certificate, the requirement for a person to sign a DL 107 is satisfied by the program participant's signature on the DL 804 (New 4/2002), which attests under penalty of perjury that the participant is currently enrolled in the required DUI program. This is necessary to capture the required signature while still keeping the certificates out of the hands of the program participants. The provision of the participant's signature and the subsequent receipt of the DL 107 by the department, will serve as the necessary proof of program enrollment. This subdivision also specifies the retention period of the DL 804 will be for the period required by Section 9866 of Title 9 of the California Code of Regulations. This subdivision also requires that the completed DL 804 be made available to the department upon request. This is necessary so that the department can obtain the documents as evidence in the event we need to pursue a fraud action against a participant who engages in the fraudulent submission of the enrollment certificate.

The department proposes to add subdivision (f) to section 120.01. Subdivision (f) provides that the department will only accept proof of enrollment certificates that contain all requested information. It also provides that the department will retain all incomplete certificates and require the program provider who submitted them to submit a replacement certificate that is complete. This is necessary to ensure that all information required to process the document is provided on the certificates submitted by the program providers. The department has received proof of enrollment certificates that were incomplete and this often prevents the accurate updating of the department's driver license records. Issuance of incomplete certificates also allows a participant or other persons to provide certificates that contain fraudulent information. This proposed subdivision would help to prevent these problems.

The department proposes to add subdivision (g) to section 120.01. Subdivision (g) provides that the department will only accept proof of enrollment certificates from the program provider to whom they were shipped and assigned. It will also allow acceptance of electronic certificates from providers who are authorized to submit them. This subdivision is necessary to ensure that the certificates are not being fraudulently

submitted from persons who are not authorized to possess or submit them. This will help to reduce the number of fraudulent certificates submitted or accepted.

§120.02. Lost or Stolen Notice of Completion Certificates or Proof of Enrollment Certificates.

Existing Section 120.02 specifies the procedures a DUI Program director must follow when Notice of Completion Certificates are lost or stolen.

This section is amended to specify that the same procedures for lost or stolen Notice of Completion Certificates also apply to lost or stolen Proof of Enrollment forms. Since Notice of Completion Certificates and Proof of Enrollment forms are controlled items that are issued and used in the same manner, the procedures for reporting lost or stolen Proof of Enrollment forms should be same as the procedures for Notice of Completion Certificates. The changes to this section also update the name of the department section to which reports of lost certificates must be sent.

§120.04. Certificates Required for First Conviction of Driving Under the Influence.

The first paragraph of existing Section 120.04 specifies that the department will notify the driver of the due date for a Notice of Completion Certificate, DL 101 (6/93) when the court notifies the department of a first DUI conviction. Because the program provider will no longer be issuing the DL 101 to the driver, the word “issue”, which occurs immediately after the revision date, has been replaced with a statement that the certificate must be submitted by the DUI Program Provider. The DL 101 has been revised, and the existing regulation must be amended to reflect the new revision date of 12/2000. This first paragraph had previously not been numbered, but needs a subdivision number for citation and enforcement purposes so it was numbered subdivision (a).

Existing Section 120.04, subdivision (a) specifies how the department will determine the due date of the completion certificate. There were minor non-substantive changes to the wording in this subdivision including a renumbering of the subdivision from (a) to (b).

Existing Section 120.04, subdivision (b) specifies how a provider is to notify the department when it has granted a leave of absence. This section is amended to require that each participant be reported individually on a separate report. This is necessary to facilitate the department’s use of these reports in subsequent legal actions and to eliminate an unnecessary labor-intensive workload that is required when the department processes names submitted in lists containing many names on one report.

Existing Section 120.04, subdivision (c) requires the program provider to notify the department when the provider allows a program participant to participate in an extended payment plan to pay the costs of program participation over time. This subdivision also requires the department upon receipt of an extended payment plan report to extend the completion certificate due date. This section is deleted to eliminate both the requirement on the provider for reporting the participant’s involvement in an extended payment plan and the requirement on the department to extend the certificate

due date. This is necessary to end a process that is not authorized or required in statute and serves no legitimate driver safety purpose.